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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHEN R. LAWRENCE and OMAR HABIB KHAN

Appeal 2009-004227
Application 10/815,071
Technology Center 2100

Decided: March 3, 2010

Before JAMES D. THOMAS, LEE E. BARRETT, and THU A. DANG,
Administrative Patent Judges.

THOMAS, *Administrative Patent Judge.*

DECISION ON APPEAL
STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1, 3-11, 13-28, 30-38, and 40-55. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

In general, embodiments of the claimed invention capture an event associated with an article and associate the event with related events. This involves capturing and indexing the event, creating a related event object that is associated with a set of one or more related events, creating a *second level* related event object comprising the related event object and a set of one or more other related event objects, and associating the second level related event object, the related event object, and the one or more other related events objects. Thus, the claimed second level event objects associate related events objects, which in turn associate events.

For example, if the article is a web site, an event related to the web site could be viewing of a web page on the web site. (Specification paragraph 0019). A related event object could then be associated with other events for the same web page. Further, a second level event object could comprise the related event object and related event objects for other pages on the web site. (App. Br., 5-6, Fig. 4.)

REPRESENTATIVE CLAIM

Below is reproduced independent claim 1:

1. A method, comprising:

capturing an event associated with an article, wherein the event comprises event data;

indexing the event, the indexing comprising extracting at least some of the event data;

creating a related event object related to the event and based on at least a portion of the extracted event data, wherein the related event object is associated with a set of one or more related events;

creating a second level related event object comprising the related event object and a set of one or more other related event objects;

associating the second level related event object, the related event object, and the one or more other related events objects; and

storing at least a portion of the extracted event data, the related event object, and the second level related event object.

PRIOR ART AND EXAMINER'S REJECTIONS

The Examiner relies on the following references as evidence of anticipation and unpatentability:

Belfiore	US 2002/0059425 A1	May 16, 2002
Hrabik	US 2002/0178383 A1	Nov. 28, 2002
Maxham	US 2004/0187075 A1	Sep. 23, 2004 (filed Jan. 07, 2004)
Vleet	US 2005/0033803 A1	Feb. 10, 2005 (filed Jul. 02, 2003)

Claims 1, 3-8, 11, 13, 14, 16-22, 28, 30-35, 38, 40, 41, 43-49, and 55 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Vleet. All remaining claims on appeal stand rejected under 35 U.S.C. § 103. The

Examiner adds Belfiore to Vleet as to claims 9, 10, 15, 36, 37, and 42 in a second stated rejection. In a third stated rejection, as to claims 23-25 and 50-52, the Examiner relies upon Vleet in view of Hrabik. Lastly, in a fourth stated rejection, the Examiner relies upon Vleet in view of Hrabik, further in view of Maxham, as to claims 26, 27, 53, and 54.

Claim Groupings

Within in the first stated rejection under 35 U.S.C. § 102, Appellants' arguments in the Brief consider independent claim 1 as representative of the subject matter of independent claims 1, 28, and 55. No arguments are presented as to any dependent claim within this rejection. Correspondingly, patentability of each of the respective claims in the second through fourth stated rejections is not separately argued; arguments with respect to these rejections rely for patentability upon the subject matter of their respective independent claims.

ISSUE

Did the Examiner err in finding that Vleet anticipates the creation of the second level related event object and the corresponding association of it to other objects within representative independent claim 1 on appeal?

FINDINGS OF FACT (FF)

1. Vleet's abstract teaches:

A web site system includes an event history server system that persistently stores event data reflective of events that occur during browsing sessions of web site users, and makes such data available to other applications and services in real time. The server system may, for example, be used to record information about every mouse click of every recognized user, and may also be used to record other types of events such as impressions and mouse-over events. The event data of a particular user may be retrieved from the server system based on event type, event time of occurrence, and various other criteria. In one embodiment, the server system includes a cache layer that caches event data by session ID, and includes a persistent storage layer the persistently stores the event data by user ID. Also disclosed are various application features that may be implemented using the stored event data.

2. We make general reference to Figures 1, 2, and 7 of Vleet and note that the Examiner relies particularly upon the subject matter discussed in paragraphs [0023-0027] of this reference. We have reproduced here the subject matter of this latter paragraph:

The event data captured by the event history server 32 reflects actions performed by users during browsing of a particular web site or set of web sites hosted by the web site system 30. This captured data may, in some embodiments, also reflect actions performed by users during browsing of external, independent web sites. For example, users may be permitted or required to download to their computers 36 a browser plug-in, such as a browser toolbar, that reports all URL accesses (and possibly other types of events) to the event history server 32 (see FIG. 7, discussed below).

(Vleet, para. [0027]).

3. The Figure 7 embodiment illustrates how the event history server may be used to collect event data reported by a browser component, such as a special browser toolbar that may be provided as an optional browser plug-in that may be downloaded and installed by users.

The browser-based event reporting component 160 preferably reports event data for all web sites and pages accessed by the user. For example, the event reporting component 160 may report every mouse click or other selection event on every web page accessed by the user. The event reporting component 160 may also report other types of browsing events, such as mouse-over events, impressions, selections of the "back" button on the web browser 162, etc.

(Vleet, para. [0079]).

PRINCIPLES OF LAW

Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. We determine the scope of the claims in patent applications

not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

ANALYSIS

We refer to, rely on, and adopt the Examiner's findings and conclusions set forth in the Answer. Our discussions will be limited to the following points of emphases.

Appellants' arguments at pages 10 and 11 urge that the limitations of representative independent claim 1 on appeal we noted in our issue statement are not taught by Vleet. The Examiner directly addresses these views as reflected at pages 7-8 of the Answer:

In response, the Examiner is not persuaded. Vleet teaches "creating a second level related event object comprising the related event object and a set of one or more other related event objects" as corresponds to "event data captured by the event history server 32 reflects actions performed by users during browsing of a particular website or set of websites" (See paragraph [0027], Vleet et al.) wherein a second level related event object comprising actions performed by users during browsing of a particular website or a set of websites (one having skill in the art would have recognized that website comprising plurality of web pages, thus actions performed by users during browsing website(s) associating related events on web pages) and the related event objects are URL accesses of that particular website.¹ Thus, associating the second level related event

object, the related event object, and the one or more other related events objects.

¹ Please notes that paragraph [0040] of the Applicant's specification states "For this case, a second level related events object can be used to refer to www.cnn.com and may point to the related objects for the web pages within a web site or specific URLs within specific websites, such www.cnn.com/technology and www.cnn.com/technology/space".

The Examiner's views reflected in these responsive arguments, in addition to our own reproduction and correlation of the pertinent portions of Vleet from our findings of fact 1-3, lead us to conclude that the Examiner is correct that the subject matter of representative independent claim 1 on appeal is anticipated by Vleet. With respect to any given user, the event history server 32 in Vleet correlates or otherwise associates representational event objects and relates them together. This relationship exists for a given user among plural websites and among browsed pages within a given website, as well as with respect to other "events". Thus, within Vleet's teachings, the claimed second level related event object may be a second or a subsequent page for a given website or a related corresponding URL for the same website, or a plurality of websites. No Reply Brief has been filed by Appellants to contest the Examiner's responsive arguments in the Answer.

CONCLUSION AND DECISION

The Examiner has not erred in finding that Vleet teaches the argued feature of creating second level related events objects and their corresponding association with other event objects as reflected in representative independent claim 1 on appeal. Since Appellants' arguments rely for patentability as to all rejections under 35 U.S.C. § 103 upon those arguments presented with respect to independent claim 1 on appeal within the first stated rejection, all claims within all additional rejections fall as well. All claims on appeal are unpatentable.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

rwk

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